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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/676,685 | 09/30/2003 | Eli Avihod | MEDIS-65233 | 8204 |
| 24201 7590 06/26/2007 FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045 | | | EXAMINER EDELL, JOSEPH F | |
| | | | ART UNIT 3636 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,685

Applicant(s)

AVIHOD, ELI

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 12, 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: "a collapsible wheelchair" (line 12) should read --the collapsible wheelchair--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,733,074 B2 to Groth.

Groth discloses a seat back for a wheelchair that includes all the limitations recited in claims 1-3 and 6. Groth shows a seat back having a layer of flexible cushion material 70 (see Fig. 2) extending the width and length of the seat back and being of foam padding, a first relatively inflexible panel 63 (see Fig. 7) attached to the right side of the layer of flexible cushion material, a second relatively inflexible panel 64 attached to the left side of the layer of flexible cushion material, a space 62 separating the first

and second relatively inflexible panels with the flexible cushion material extending across the space to provide cushioning to the back and allowing the seat back to fold between the first and second relatively inflexible panels, a covering (see Fig. 9) encompassing the layer of flexible cushion material, and at least one fastener 40 attached to each of the right and left side of the seat back configured to flexibly attach the seat back to a wheelchair wherein the seat back is affixed to a wheelchair frame capable of collapsing and serving as primary support for a user's back, and the seat back inherently providing lateral thoracic support and fostering spinal correction.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,142,351 to Green in view of U.S. Patent No. 5,593,211 to Jay et al.

Green discloses a seat back for a wheelchair that is basically the same as that recited in claims 1 and 2 except that the seat back lacks a layer of flexible material extending the width and length of the seat back, as recited in claims. See Figure 1 of Green for the teaching that the seat back has a layer of cushion material, a first relatively inflexible panel 67 attached to the right side of the layer of flexible cushion material, a second relatively inflexible panel 68 attached to the left side of the layer of

flexible cushion material, and a space separating the first and second relatively inflexible panels wherein the seat back is affixed to a wheelchair frame capable of collapsing and serving as primary support for a user's back, the seat back inherently providing lateral thoracic support and fostering spinal correction. Jay et al. show a seat back similar to that of Green wherein the seat back has a panel 36 (see Fig. 6), and a layer of flexible cushion material extending the width and length of the seat back and being of foam padding. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat back of Green to include a layer of flexible cushion material extending the width and length of the seat back, being of foam padding, and extending across the space to provide cushioning to the back and allowing the seat back to fold between the first and second relatively inflexible panels, such as the seat back disclosed by Jay et al. One would have been motivated to make such a modification in view of the suggestion in Jay et al. that the layer of flexible cushion material extending the width and length of the seat back provides a seat back capable of adjustment to specific needs of user.

6. Claims 4, 7-11, 14, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groth in view of U.S. Patent No. 6,186,594 B1 to Valiquette et al.

Groth discloses a seat back that is basically the same as that recited in claims 4, 7-11, 14, 21, and 22 except that the layer of flexible material lacks a foldable seam and fabric fasteners and is not specified as enclosing the first and second relatively flexible panels, as recited in the claims. Valiquette et al. show a seat back similar to that of Groth wherein the seat back has a layer of flexible material having a foldable seam (see

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Fig. 9) in the central portion of the seat back, and a relatively inflexible panel 111 (see Fig. 7) enclosed within foam padding being of a first sheet of cushion material 112 extending across one face of the panel and a second sheet of cushion material 112 extending across an opposite faced of the panel, and the seat back includes fasteners 117,129 that each is a panel of fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat back of Groth such that the layer of flexible cushion material has a foldable seat in the central portion of the seat back between the left and right relatively inflexible panels allowing the seat back to be folded for the wheelchair to collapse, the layer of flexible cushion material has a first sheet of cushion material extending across one face of the first and second relatively inflexible panels and a second sheet of cushion material extending across an opposite faced of the first and second relatively inflexible panels, and the at least one fastener on each side is a panel of fabric wherein the foam padding encloses the first and second relatively inflexible panels, and the first and second relatively inflexible panels form a flexible cut out in the flexible panel inherently contoured to promote posture correction and from a flexible area corresponding to an area of spinal deformity, such as the seat back disclosed by Valiquette et al. One would have been motivated to make such a modification in view of the suggestions in Valiquette et al. that the foldable seam enables easy folding, that the enclosing flexible panels aids in user's comfort, and that the fabric panels provide fasteners that may be adjusted to prevent unwanted sliding movement of the seat back.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groth in view of Valiquette et al. as applied to claims 4, 7-11, 14, 21, and 22 above, and further in view of U.S. Patent No. 4,925,242 to Harris et al.

Groth, as modified, disclose a seat back that is basically the same as that recited in claim 5 except that the padding is not specified as being attached by glue, as recited in the claim. Harris et al. show a seat back similar to that of Groth wherein the seat back has a relatively inflexible panel 76 (see Fig. 8) and a foam padding 78 attached by glue. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat back of Groth such that the foam padding and the first and second relatively inflexible panels are attached by glue, such as the seat back disclosed by Harris et al. One would have been motivated to make such a modification in view of the suggestion in Harris et al. that glue provide a method of attaching a planar surface to foam padding.

Response to Arguments

8. Applicant's arguments with respect to claims 1-9, 10, and 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

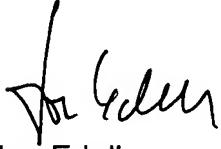
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Joe Edell". The signature is stylized with a large initial "J" and a cursive "Edell".

Joe Edell

June 21, 2007